

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

FILED

SEP 17 2020

JOSEPH L. WESTFALL,

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

Plaintiff

v.

// CIVIL ACTION NO. 1:20CV207

DONALD J. TRUMP,
President, Individually and
Official Capacities, and
STEVEN T. MNUCHIN,
Secretary, U.S. Treasury, Individually
and Official Capacity
Defendants

RESPONSE TO

ORDER TO SHOW CAUSE

and

MOTION FOR SUMMERY JUDGEMENT

RESPONSE

Cooper v. Pate, 378 U.S. 546 (1964)

Taking as true the allegations of the complaint, as they must be on a motion to dismiss, the complaint stated a cause of action, and it was error to dismiss it. *See Pierce v. LaVallee*, 293 F.2d 233 (C.A.2d Cir.); *Sewell v. Pegelow*, 291 F.2d 196 (C.A.4th Cir.).

Estelle v. Gamble, 429 U.S. 97 (1976)

The handwritten *pro se* document is be liberally construed.

As the Court unanimously held in *Haines v. Kerner*, 404 U. S. 519 (1972), a *pro se* complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers"

and can only be dismissed for failure to state a claim

if it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Id.* at 520-521, quoting *Conley v. Gibson*, 355 U. S. 41, 45-46 (1957).

cc Both Defendants

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USMagJudge Aloi Document 10 pg 2 of 3 threatens dismissal failure to (1) show cause, (2) pay filing fee, or (3) file the necessary paper work to proceed *in forma pauperis*

None of the three expressed reasons have anything to do with the above rulings of the Supreme Court of the United States

This court could

(1) wave the fee, (2) through supplied income and pay stubs, grant *in forma pauperis*, (3) accept personal check As the 4th circuit {a superior court} or even the Supreme Court of the United States does.

By definition the inferior can not be stricter nor stronger than that which is supreme.

Further, paying the Government to exercise a right was called a poll tax and ruled unconstitutional.

Paying a filing fee to exercise the first amendment right to redress a grievance, is tantamount to a poll tax.

SUMMERY JUDGEMENT

<https://home.treasury.gov/news/press-releases/sm1025> Press Releases

Treasury, IRS Announce Delivery of 159 Million Economic Impact Payments

June 3, 2020 (copy included)

After sixty-six days the Treasury “brags” about 159 million people “found” and sent what the cares act commanded.

Seventy-three days later, Aug 15, 2020 (139 total after law was enacted) the Treasury **still had not** “found” me and I wrote out complaint. 8-23-2020 I sent “Certificate of Service” to the defendants (8-23-2020) and still no check as required by the Law.

During the last 169 days (3-28/9-15-2020) payroll taxes have been withheld in and sent my name at this current address. (11-2008-to date)

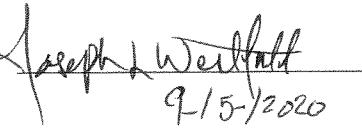
This is proof of the charged gross incompetence or wilfull neglect

Plaintiff is eligible for the rebate, Defendants are commanded to obey the law and pay the \$1200.00

ORDER the payment of the \$1200.00 to the Plaintiff

AND each of the Defendants to pay Plaintiff \$110,000,000.00 (one hundred and ten million dollars)

certify this as a class action for the remaining 12 million people who have not yet received the \$1200.00

 Joseph L. Westfall 9/15/2020
9-15-2020

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JLW

<https://home.treasury.gov/news/press-releases/sm1025>

Press Releases

Treasury, IRS Announce Delivery of 159 Million Economic Impact Payments

June 3, 2020

WASHINGTON—The U.S. Department of the Treasury and IRS announced today that 159 million Economic Impact Payments, worth more than \$267 billion, have been distributed to Americans in two months. Payments have been sent to all eligible Americans for whom the IRS has the necessary information to make a payment. These totals do not include the more than \$2.5 billion that have been delivered to U.S. territories for payment to territory residents.

“The Trump Administration has delivered 159 million Economic Impact Payments worth more than \$267 billion to Americans in record time,” said Secretary Steven T. Mnuchin. “These payments are an integral part of our commitment to providing much-needed relief to the American people during this unprecedented time.”

The last time a similar effort was undertaken, it took over two months to make 800,000 payments. Of the Economic Impact Payments, 120 million were sent to Americans by direct deposit, 35 million by check and 4 million payments were made in the form of a pre-paid debit card. For EIP figures, click [here](#).

Even with these unprecedented efforts, there are eligible Americans who still did not yet receive their payments, and need to take action.

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